

SIKKIM



GOVERNMENT

GAZETTE

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

Gangtok

Friday 05th March, 2021

No. 67

**GOVERNMENT OF SIKKIM
HEALTH AND FAMILY WELFARE DEPARTMENT
GANGTOK**

No. 213/H&FW

DATE: 23/09/2020

NOTIFICATION

In exercise of the powers conferred by sub-section (2), read with sub-section (4) of section 121 of the Mental Healthcare Act, 2017, (10 of 2017) the State Government with the previous approval by the Central Government hereby makes the following rules, namely:-

CHAPTER-I

PRELIMINARY

1. Short title, extent and commencement-

- (1) These rules may be called the Mental Healthcare (State Mental Health Authority) Rules, 2020.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions. –

- (1) In these rules, unless the context otherwise requires, -

- (a) "Act" means the Mental Healthcare Act, 2017;
- (b) "De-addiction facility" or called by any other name means a place 'which qualifies the definition of Mental Health Establishment as per section 2 (p) of the Act and where persons diagnosed to have abuse or dependence on alcohol and/or other drugs are treated and cared for;
- (c) "Form" means a Form appended to these rules;
- (d) "Rehabilitation facility" or called by any other name means a place 'which qualifies the definition of Mental Health Establishment as per Section 2 (p) of the Act and where persons diagnosed to have abuse or dependence on alcohol and/or other drugs are treated and cared for;
- (e) "rules" means the rules prescribed under the Act;
- (f) "section" means section of the Act;

- (2) The words and expressions used herein and not defined but defined in the Act or, as the case maybe, in the Indian Medical Council Act, 1956(102 Of 1956) or the Indian Medicine Central Council Act, 1970 (48 of 1970), in so far as they are not inconsistent with the provisions of the Act, shall have the meanings as assigned to them in the Act or, as the case may be, in those enactments.

CHAPTER II

STATE MENTAL HEALTH AUTHORITY

3. The Constitution of State Authority

The State Authority shall consist of the following ex officio chairperson and members:

- (a) Principal Secretary or Secretary, Department of Health - Chairperson ;
- (b) Mission Director, National Health Mission, Department of Health & Family Welfare, Govt. of Sikkim - ex officio member;
- (c) State Nodal Officer in charge of Mental Health, Department of Health - ex officio member;
- (d) Secretary, Department of Social Welfare - ex officio member;
- (e) Secretary, Home Department - ex officio member;
- (f) Secretary Finance Department - ex officio member ;
- (g) Secretary, Law Department - ex officio member;
- (h) Member Secretary, Sikkim State Legal Services Authority- ex officio member;
- (i) Head of Department of Psychiatry, New STNM Hospital -ex officio member;
- (j) Eminent Psychiatrist – non- official member;
- (k) Psychiatric Social worker - non -official member;
- (l) Clinical Psychologist - non -official member;
- (m) Mental Health Nurse – non -official member;
- (n) Two representative of person who have or had mental illness- non -official member;
- (o) Two representative of care giver of persons with mental illness or organisation representing care-givers – non official member;
- (p) Two representative of non-governmental organisations providing services to persons with mental illness – non official member.

4. Norms for selection of non-official members of State Authority –

A person shall not be selected as a non- official member of State Authority unless, he/she –

- (a) is an Indian National ;
- (b) is of the age not exceeding sixty-seven years;
- (c) possesses qualification and experience as specified in rule 5.

5. Qualification and experience for nomination of non-official members of State Authority.-
The State Government shall nominate-
 - (a) one person who is an eminent psychiatrist not in government service: as a member of the State Authority ;
 - (b) one mental health professional, having a minimum of 15(fifteen) years' experience in his/her respective field and registered as mental health professional with the State Authority;
 - (c) one psychiatric social worker, having a minimum of 15 (fifteen)years experience in his/her respective field and registered as mental health professional with the State Authority; as member of the State Authority;
 - (d) one clinical psychologist having a minimum of 15 (fifteen) years experience in his/her respective field and registered as mental health professional with the State Authority,
 - (e) one mental health nurse, having a minimum of 15 (fifteen)years experience in her respective field and registered as mental health professional with the State Authority;
 - (f) two persons representing persons who have or have had mental illness ;
 - (g) two persons representing care-givers of persons with mental illness or organisations representing care-givers;
 - (h) two persons representing non- governmental organisations which provide services to persons with mental illness
6. Invitation of application for the posts of non –official members of State Authority:-
A vacancy for the post of non-official member of the State Authority shall be given wide publicity through open advertisement in atleast two daily newspapers (one Englishand one local language) having wide circulation in the State and the advertisement shall also be made available on the website of the Department of Health.
7. Selection Committee for nomination of non-official members of State Authority:-
The Selection Committee for nomination of non-official members of the State Authority shall consists of a Chairperson who shall be the Chairperson of the State Authority and two independent experts of eminence in the field of mental healthcare, to be nominated by the State Government.
8. Procedure for nomination of non-official members of State Authority:-
 - (1) The Selection Committee constituted under rule 7 shall consider all applications received by the Department and scrutinize such applications which fulfill the requirements of section 46 and rules 4 and 5.
 - (2) The selection committee shall, having regard to the provisions of the Act and the rules, decide about the suitability of the applicants for being selected as members of the State Authority:
Provided that in case of persons to be nominated under clause (f), (g) and (h) of rule 5, preference shall be given to the persons with 10(ten) years of experience in dealing with persons with mental illness.
 - (3) The State Government shall nominate the persons selected by the Selection Committee as non- official members of the State Authority.

9. Term of office and allowances of non-official members of State Authority:-
- (1) Every non-official member nominated under rule 8 shall hold his/her office for a term of 3(three) years at a time from the date of his/her nomination.
 - (2) Every non-official member attending the meeting of the State Authority shall be entitled to sitting allowance, travelling allowance, daily allowance and such other allowances as are applicable to non-official members of the Commissions and Committees of the State Government attending the meeting of such Commission or Committee.
10. Furnishing of information:-
The State Government may call for information concerning the activities of the State Authority or the Board periodically or as and when required by it and the State Authority or the Board, as the case may be, shall furnish such information in Form-A.
11. The Chief Executive Officer of the State Mental Health Authority will be the Director Health Services I of Health and Family Welfare Department.

CHAPTER III

PROVISIONAL REGISTRATION OF MENTAL HEALTH ESTABLISHMENTS BY STATE AUTHORITY

12. Procedure for provisional registration of mental health establishments by State Authority:-
- (1) Every mental health establishment in a State, except the mental health establishment under the Control of the Central Government, shall be registered with the State Authority.
 - (2) Every mental health establishment referred to in sub-rule (1) shall submit an application for provisional registration to the State Authority in Form-B, containing details as specified therein, along with a fee of Rs. 5000/- (rupees five thousand) by way of a demand draft drawn in favour of the Chairperson, State Mental Health Authority payable at State Bank of Sikkim, Tashiling Secretariat, Gangtok.
 - (3) The State Authority shall, on being satisfied that the mental health establishment fulfills all the requirements as specified in section 65 and 66, grant to such mental health establishment, a provisional registration certificate in Form-C.
13. Validity and renewal of certificate of registration:-
The provisional registration certificate granted under sub-rule (3) of rule 12 shall be valid for a period of 12 (twelve) months from the date of such grant and an application for renewal of such certificate shall be made in Form-B within 30(thirty) days before the date of expiry of the period of validity of such certificate and in case application is not made within the specified period, the mental health establishment concerned shall be liable to pay renewal fee of Rs. 5000/- (rupees five thousand) by way of a demand draft drawn in favour of the Chairperson, State Mental Health Authority payable at State Bank of Sikkim, Tashiling Secretariat, Gangtok

14. Issue of duplicate certificate:-

Where a certificate of registration granted to a mental health establishment is destroyed or lost or mutilated or damaged, the State Authority may issue a duplicate certificate on an application made by such establishment along with a fee of Rs. 2000/- (rupees two thousand) by way of a demand draft drawn in favor of the Chairperson, State Mental Health Authority payable at State Bank of Sikkim, Tashiling Secretariat, Gangtok

15. Maintenance of digital register:-

- (1) A category- wise register in Form-D of all registered mental health establishments shall be maintained by the State Authority in digital format in accordance with the provisions of sections 55 and 71. To be prescribed by regulation under clause (c) of sub section (2) of 123.
- (2) A category-wise register in Form- E of all registered mental health professionals shall be maintained by the State Authority in digital format in accordance with the provisions of section 55(1), (d).
- (3) Applications for Registration of Mental Health Professionals shall be submitted in Form-F along with a fee of Rs. 1000/- (rupees one thousand) by way of a demand draft drawn in favour of the Chairperson, State Mental Health Authority payable at State Bank of Sikkim, Tashiling Secretariat, Gangtok.
- (4) Certificate of Provisional registration / Renewal of provisional registration shall be issued to the professionals by the State Mental Health Authority in Form G. The registration certificate issued is subject to the conditions laid down in the Mental Healthcare Act, 2017 and the rules and regulations made there under and shall be valid for a period of 10(ten) years from the date of its issue and can be renewed before 1(one) month of the expiry with the prescribed fee as maybe notified by the Authority from time to time.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

16. Accounts and audit of State Authority:-

- (1) The State Authority shall maintain accounts of its income and expenditure relating to each year and prepare an annual statement of accounts consisting of income and expenditure account and the balance sheet.
- (2) Annual statement of accounts shall be submitted for audit not later than 30th June each year in the common accounting format prescribed from time to time by the Ministry of Finance for the central autonomous bodies or as nearer thereto as the circumstances admit.
- (3) The annual statement of accounts prepared under sub-rule (1) shall be signed on behalf of the State Authority by the officer in-charge of accounts and the Chief Executive Officer and shall be approved by the State Authority.

17. Annual report of the State Authority:-

- (1) The State Authority shall prepare its annual report in Form-H and forward it to be State Government within nine months of the end of the financial year for being laid before the State Legislative Assembly.

- (2) The annual report shall give full account of the activities of the State Authority during the previous year and shall include the audited accounts of the year and the report of the Comptroller and Auditor General of India thereon.

CHAPTER V

MENTAL HEALTH REVIEW BOARDS

18. Mental Health Review Boards:-
- (1) For the purpose of constituting Mental Health Review Boards under section 73, the State Authority shall, in consultation with the State Government, take decision on 1 (one) board such board to be constituted at Gangtok, East Sikkim
19. Appointment of chairperson and members of Board. –
- (1) For the purpose of appointment of the chairperson of the Board under clause (a), and the members of the Board under clauses (c) and (d) of sub- section (1) of section 74, the State Authority with the approval of state government shall nominate Secretary Law department as the Chairman of the Board and the following as members namely :
- (a) Sub Divisional Magistrate (SDM), Gangtok;
 - (b) HOD Medicine, New STNM Multispecialty Hospital , Gangtok;
 - (c) HOD Psychiatry, New STNM Multispecialty Hospital , Gangtok;
 - (d) a representative from Non- Governmental Organisation (NGO) working in the field of Mental health
 - (e) a person representing mental illness or care givers
- (2) The State Authority shall, 3 (three) months prior to occurrence of vacancy in the office of chairperson or member of the Board, or where such vacancy arises by reason of death or resignation or removal of such member, initiate the process for filling up such vacancy in a like manner.
- (3) The State Authority shall, from time to time, arrange for the chairpersons and members of the Board to undergo induction training in mental health law, mental healthcare and related areas of not less than two working days.
20. Other disqualifications for Chairperson or member of Board:-
- (1) In addition to the disqualifications specified in clauses (a) to (d) of sub- section (2) of section 74, a chairperson or a member of the Board appointed by the State Authority shall stand disqualified for the purposes of said sub- section (2), if he holds:-
- (i) any full-time or part-time assignment that prevents him from giving adequate time and attention to the work of the Board under the provisions of the Act and the rules made thereunder; or
 - (ii) any office in any political party during his tenure of office in the Board.

- (2) The State Authority may remove the Chairperson or a member of the Board if a complaint is received against such person and on enquiry by a competent authority appointed for that purpose by the State Authority, it is found that there is substance in such complaint and that the conduct of such person is unbecoming of the office he holds:
 - (3) The State Authority may suspend the Chairperson or a member of the Board immediately if a criminal case is registered against such person and revoke such suspension if such person is acquitted of the charges framed against him in such case.
21. Honorarium, allowances and other terms and conditions of service of Chairperson and members of Board:-
- (1) Every member of the Board, who is not a Government servant, attending the meeting of the Board shall be entitled to sitting allowance, travelling allowance, daily allowance and such other allowances as are applicable to non-official members of the Commissions and Committees of the State Government attending the meetings of such Commission or Committee.

CHAPTER VI

AUDIT, INSPECTION AND ENQUIRY OF MENTAL HEALTH ESTABLISHMENTS

22. Audit of mental health establishments:-
- (1). The State Authority shall, for the purpose of conducting audit of registered mental health establishments in the State, authorize 3 (three) or more of the following persons to ensure that such mental health establishments comply with the minimum standards specified under the Act, namely:-
 - (a) a representative of the District Collector or District Commissioner of the district where the mental health establishment is situated;
 - (b) a representative of the State Human Rights Commission of the State where the mental health establishment is situated;
 - (c) a Psychiatrist who is in Government service;
 - (d) a Psychiatrist who is in private practice;
 - (e) a mental health professional who is not a psychiatrist;
 - (f) a representative of a Non-Governmental Organisation (NGO) working in the area of mental health;
 - (g) representatives of the care-givers of persons with mental illness or organisations representing care-givers; and
 - (h) representatives of the persons who have or have had mental illness.
 - (2) For conducting audit of registered mental health establishment, the State Authority shall charge a fee of Rs. 2000(two thousand) by way of a demand draft drawn in favour of the Chairperson, State Mental Health Authority payable at State bank of Sikkim, Tashiling, Secretariat Gangtok Sikkim

23. Inspection and inquiry of mental health establishments:-

- (1) The State Authority may, suo moto or on a complaint received from any person with respect to non-adherence of minimum standards specified under the Act or contravention of any provision thereof, order an inspection and inquiry of any mental health establishment, to be made by a 4 (four) member team consisting of any of the following persons, namely:-
 - (a) a Psychiatrist in Government service;
 - (b) a Psychiatrist in private practice;
 - (c) a mental health professional who is not a psychiatrist;
 - (d) a representative of a Non-Governmental Organization (NGO) working in the area of mental health;
 - (e) a police officer in charge of the police station under whose jurisdiction, the mental health establishment is situated;
 - (f) a representative of the District Collector or District Commissioner of the district where the mental health establishment is situated.
- (2) The State Authority or the person authorized under sub-rule (1) may, if it has reasons to believe that a person is operating a mental health establishment without registration, or is not adhering to the minimum standards specified under the Act or has been contravening any of the provisions of the Act or the rules and regulations made thereunder, enter and search such mental health establishment.
- (3) During search, the State Authority or the person authorized by it may require the mental health professional in charge of the mental health establishment to produce the original documents relating to its registration with the State Authority and it shall be obligatory on the part of the mental health establishment to produce such documents.
- (4) Within 1(one) week of completing search of the mental health establishment under sub-rule (3), a written report of the findings of such search shall be submitted to the Chairperson of the State Authority.
- (5) The Chairperson of the State Authority, shall, on receipt of the written report under sub-rule (4), take such action as it deems fit, against the defaulting mental health establishment in accordance with the provisions of the Act.

Form –A

[See rule 10]

INFORMATION ON THE ACTIVITIES OF THE STATE AUTHORITY/ BOARD

1. New Regulations notified:
2. Number of orders passed during the year:
3. Meetings held during the year:
4. Number and details of mental health establishments under the control of the State Government:
5. Number and details of mental health establishments in the State or Union Territory:
6. Registration of mental health professionals by the State Authority:
7. Statement on references received from the Central Government and the State Government and action taken thereon:
8. Quality and service provision norms for different types of mental health establishments under the State Government:
9. Training imparted to persons including law enforcement officials, mental health professionals and other health professionals about the provisions implementation of the Mental Healthcare Act, 2017:
10. Applications for registration of mental health establishments received, accepted and rejected along with reasons for such rejection:
11. Audit of Mental Health Establishments along with audit reports:
12. Complaints received regarding violation of rights of Mentally ill persons and action taken thereon:
13. Details regarding guidance documents for medical practitioners and mental health professionals:
14. Number of cases registered regarding Sexual Harassment of Women at Workplace under section 22 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressed) Act, 2013 and details thereof:
15. Details of inspection and inquiry of Mental Health Establishments:
16. Number of appeals to High Court against order of Authority and status thereof:
17. Complaints received regarding deficiencies in provision of services and action taken thereon:
18. Stakeholders Consultations:
19. Inquiry initiated by the Authority/ Board:
20. Administration and establishment matters:
21. Budget and Accounts with details including balance sheet, income and expenditure account, etc.
22. Any other matter which may be relevant:

Form B

[See rules 12 (2) and 13]

**APPLICATION FOR GRANT OF PROVISIONAL REGISTRATION/ RENEWAL OF
PROVISIONAL REGISTRATION OF A MENTAL HEALTH ESTABLISHMENT**

To

The Sikkim State Mental Health Authority,
Health and Family Welfare Department,
Government of Sikkim.

Dear Sir/ Madam,

I/ we intend to apply for grant of provisional registration/ permanent registration/ renewal of provisional registration for the Mental Health Establishment namely.....
of which I am/ we are holding a valid licence/ registration for the establishment/ maintenance of such hospital/ nursing home/ mental health establishment. Details of the hospital/ nursing home/ mental health establishment are given below:

1. Name of applicant.....
2. Details of licence with reference to the name of the authority issuing the licence and date.....
3. Age.....
4. Professional experience in Psychiatry.....
5. Permanent address of the applicant.....
6. Location of the proposed hospital/ nursing home/ mental health establishment.....
7. Address of the proposed nursing home/ hospital/ mental health establishment.....
8. Proposed accommodations:
- (a) Number of rooms:
- (b) Number of beds:
- (c) Facilities provided:
- (d) Out- patient:
- (e) Emergency services:
- (f) In- patient facilities:
- (g) Occupation and recreational facilities:
- (h) ECT facilities (n X- Ray facilities):
- (i) Psychological testing facilities:
- (j) Investigation and laboratory facilities:
- (k) Treatment facilities:

Staff pattern:

- (a) Number of doctors:
- (b) Number nurses:
- (c) Number of attendees:
- (d) Others:

I am herewith sending a bank draft for Rs.....drawn in favour ofas application fee.

I hereby undertake to abide by the rules and regulation of the Mental Health Authority.

I request you to consider my application and grant the licence for establishment/ maintenance of psychiatric hospital/ nursing home/ mental health establishment.

Yours faithfully

Signature.....

Name.....

Date.....

Form-C

[See rule 12 (3)]

**CERTIFICATE OF PROVISIONAL REGISTRATION/ RENEWAL OF PROVISIONAL
REGISTRATION**

The State Authority, after considering the application dated submitted by under section 65 (2) or section 66 (3) or section 66 (10) of the Mental Healthcare Act, 2017, hereby accords provisional registration/ renewal of provisional registration to the applicant mental health establishment in terms of section 66 (4) or section 66 (11), as per the details given hereunder:

Name

Address

No. of beds

The provisional registration certificate issued is subject to the condition laid down in the Mental Healthcare Act, 2017 and the rules and regulations made there under and shall be valid for a period of twelve months from the date of its issue and can be renewed.

Place

Date

Registration Authority

Seal of the Registration Authority

Form – D

[See rule 15 (1)]

Register of Mental Health Establishments

(in digital format)*

Category

Sl no.	Name and Address of the applicant	Name of the establishment and address	Date of the application	Date and particulars of Registration	No. of beds	Remarks

*separate table for each category of mental health establishment.

Form -E

[See rule 15(2)]

Register of Mental Health Professionals

(in digital format)

Separate table for each category of mental health professionals

SI no.	Full Name and Address of the applicant	Degree/PG	RCI/NCI/ others*	Place of practice/ work	Contact Number/ Email	Remarks

*the Psychiatric Social Workers will be registered as per the Mental Healthcare Act, 2017 prescription.

Form – F

[See rules 15 (3)]

**APPLICATION FOR GRANT OF REGISTRATION / RENEWAL OF REGISTRATION OF
MENTAL HEALTH PROFESSIONALS**

To,

The Mental Health Authority
HC, HS & FW Department
Government of Sikkim

Dear Sir/ Madam,

I intend to apply for grant of registration/ renewal of registration for the Mental Health Professionals namely

1. Name of applicants
2. Details of registration of qualifying degree in respective specialities* (RCI / NCI) (copy attached):
3. Age:
4. Professional experience in Psychiatry:
5. Permanent address of the applicant:
6. Location / s of the practice:
7. Qualifications (copies attached):

I am herewith sending a bank draft for Rs drawn in favour ofas applicants fee.

I hereby undertake to abide by the rules and regulation of the Mental Health Authority.

I request you to consider my application and grant the registration for the Mental Health Professional to practice in Sikkim State.

Yours faithfully,

Signature:

Name:

Date:

*this is not applicable for Psychiatric Social Worker

Form- G

[See rule 15(4)]

**CERTIFICATE OF PROVISIONAL REGISTRATION/ RENEWAL OF PROVISIONAL
REGISTRATION**

The State Authority, after considering the application datedsubmitted by
..... under section 55 (1) (d) of the Mental Healthcare Act,
2017, hereby accords registration/ renewal of registration to the applicant, as mental health
professionals category

Registration No:

Name:

Address:

The registration certificate issued is subject to the conditions laid down in the Mental
Healthcare Act, 2017 and the rules and regulations made there under and shall be valid for a
period of ten years from the date of its issue and can be renewed.

Place

Date

Registration Authority

Seal of the Registration Authority

Form – H

[See rule 17 (1)]

Annual Report of State Authority

1. Introduction
2. Profile of the Authority's Members
3. Scope of Regulation
4. New Regulations/ procedures etc.
5. Orders passed by the Authority
6. Meetings of the State Mental Health Authority held during the year
7. Mental Health Establishments under the control of the State Government
8. Mental Health establishments in the State
9. Registration of mental health professionals by the State Authorities
10. A statements on references received from Central and State Government and action taken thereon
11. A statement on references sent to the Central and State Government and action taken thereon by the respective Government.
12. Quality and service provisions norms for different types of mental health establishments under the State Government
13. Supervision of mental health establishment under the State Government and action taken on the complaints received about deficiencies in provision of services therein
14. Training imparted to persons including law enforcement officials , mental health professionals and other health professionals about the provisions and implementation of the Mental Healthcare Act, 2017
15. Application for registration of mental health establishments received accepted and rejected along with reasons for such rejection.
16. Audit of Mental Health Establishments
17. Complaints received regarding violation of rights of Mentally ill persons and action taken thereon
18. Details regarding guidance document for medical practitioners and mental health professionals
19. Implementation of RTI Act, 2005
20. Details regarding Sexual Harassments of Women at Workplace under Section 22 of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
21. Inspection and Inquiry of Mental Health Establishments
22. Appeals to High Court against order of Authority and status thereof
23. Status of review of use of advance directives and recommendations of the Authority in respect thereof.
24. Complaints received about deficiencies in provision of services and action taken thereon.
25. Stakeholders Consultations
26. Inquiry initiated by the Authority
27. Administration and establishment matters
28. Annual accounts
29. Any other matter which in the opinion of the Authority need to be highlighted.

Principal Secretary
Department of Health & Family Welfare

